

Criminal Justice and Public Safety

**PUBLIC 1
EMERGENCY**

**An Act to Make Corrections to Laws in Conflict with MCJUSTIS
Changes**

LD 18

Sponsor(s)

Committee Report
OTP-AM

Amendments Adopted
H-5

Public Law 2003, chapter 1 amends the Maine Criminal Code to correct conflicts with Public Law 2001, chapter 667, legislation enacted in the 120th Legislature, pursuant to recommendations by the Maine Criminal Justice Information System Policy Board. Public Law 2003, chapter 1 does the following.

1. It repeals sections of law that were incorporated into the Maine Criminal Code elsewhere by Public Law 2001, chapter 667.
2. It includes the correct classification of crime for 2 forms of aggravated trafficking and aggravated furnishing of scheduled drugs.
3. It corrects a cross-reference concerning the theft of scheduled drugs.
4. It corrects the application of general language concerning prior convictions by providing that prior convictions for sexual assaults may be used as sentencing enhancers even if the prior convictions were entered more than 10 years earlier.

Public Law 2003, chapter 1 was enacted as an emergency measure effective January 30, 2003.

PUBLIC 12

**An Act To Amend the Law Regarding Security Officer
Qualifications**

LD 375

Sponsor(s)
BUNKER
HATCH PH

Committee Report
OTP

Amendments Adopted

Public Law 2003, chapter 12 removes from the list of screening criteria for security guard employment the automatic disqualifier of having been adjudicated of committing 3 civil violations within 5 years.

PUBLIC 15

**An Act to Amend the Maine Bail Code as Recommended by the
Criminal Law Advisory Commission**

LD 224

Sponsor(s)

Committee Report
OTP

Amendments Adopted

Public Law 2003, chapter 15 amends the definition of "failure to appear" to include a failure to surrender into custody at the time and place required under the Maine Rules of Criminal Procedure, Rule 32(a)(1).

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Public Law 2003, chapter 15 also prohibits an attorney in a criminal matter, while representing a defendant, from providing cash bail or acting as surety for the client. This same prohibition is found in the Maine Rules of Criminal Procedure, Rule 26(d).

PUBLIC 16	An Act To Amend the Maine Juvenile Code as Recommended by the Criminal Law Advisory Commission	LD 223
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<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP	

Public Law 2003, chapter 16 clarifies the authority of a juvenile community corrections officer to issue and serve a summons. The Commissioner of Corrections, at the commissioner's discretion, must authorize any issuance or service by a juvenile community corrections officer. Public Law 2003, chapter 16 further allows the commissioner to impose conditions as to when and under what circumstances such authority may be exercised. The primary responsibility for issuing and serving summonses continues to rest with law enforcement officers.

PUBLIC 19	An Act Concerning Full-time Law Enforcement and Corrections Officers	LD 151
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<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAVIS P	OTP	

Public Law 2003, chapter 19 changes the method of determining who is a full-time law enforcement or corrections officer for purposes of required training from one based on compensation to one based on hours worked in the course of a year. Current law defines a full time officer as one who has a reasonable expectation of earning at least \$10,000 per year. Public Law 2003, chapter 19 makes the training law consistent with Title 30-A, section 386, which deals with compensation of a deputy sheriff based on hours worked. Title 30-A and Public Law 2003, chapter 19 specify that a part-time LEO may not be compensated for more than 1040 hours of work in any one calendar or fiscal year.

PUBLIC 24	An Act To Repeal the Crime of Plundering at Fires as Larceny	LD 728
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<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLS J	OTP	

Public Law 2003, chapter 24 repeals the crime of "plundering at fires," which is larceny that occurs when a person "takes, carries away or conceals any property not his own, at a fire, or exposed by reason thereof, and does not give notice of it to the owner or one of the fire wards." This crime may be prosecuted under the Maine Criminal Code as theft.

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PUBLIC 42 **An Act Regarding the Enforcement Powers of the Office of the**
EMERGENCY **State Fire Marshal**

LD 79

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAVIS P	OTP-AM	S-3

Public Law 2003, chapter 42 removes the limitation on the State Fire Marshal and the State Fire Marshal's deputy and investigators to enforcement of laws, rules and ordinances concerned only with issues such as fire prevention and arson. Public Law 2003, chapter 42 specifies that the State Fire Marshal and the State Fire Marshal's deputy and investigators have the same law enforcement powers and duties as sheriffs have in their respective counties.

Public Law 2003, chapter 42 was enacted as an emergency measure effective April 15, 2003.

PUBLIC 66 **An Act To Clarify the Standard for Review of Preconviction Bail**

LD 729

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLS P	OTP-AM	H-71

Public Law 2003, chapter 66 clarifies the process for review of preconviction bail by clearly stating that, upon receiving a petition for review of preconviction bail from a defendant who is in custody as a result of a decision of a District Court Judge or a bail commissioner or a defendant who is not in custody but who is aggrieved by a decision of a District Court Judge or a bail commissioner, a Superior Court Justice shall make an entirely new or de novo determination of bail. The Superior Court does not increase or decrease or otherwise modify the bail that is set but instead hears argument and makes an entirely new bail determination. This determination may include bail in any manner authorized by Title 15, section 1026; therefore, the Superior Court's de novo determination of bail may be the same, may be higher or lower or may have different conditions than the bail previously set.

PUBLIC 80 **An Act To Clarify the Responsibilities of Contract Law**
 Enforcement Officers

LD 895

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SAVAGE	OTP-AM	S-25

Public Law 2003, chapter 80 clarifies that a municipality lacking an organized police department may contract with the State Police or a sheriff's department to enforce municipal ordinances and give the officers or deputy sheriffs the authority to enforce the ordinances.

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PUBLIC 87 An Act Regarding Bail and Fines

LD 838

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SHERMAN WOODCOCK	OTP-AM	H-90

Public Law 2003, chapter 87 allows for bail previously posted to be set off against the same expenses associated with other proceedings involving the same defendant. Current law authorizes the setoff of bail against criminal fines, forfeitures, fees, restitution, attorney's fees and expenses and surcharges arising from the criminal proceeding for which the bail has been posted. Public Law 2003, chapter 87 also directs the court to apply any bail collected pursuant to this subsection first to restitution.

PUBLIC 102 An Act To Change the Definition of Family or Household Members for Purposes of Criminal Statutes

LD 1182

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LAFOUNTAIN O'NEIL	OTP	

Public Law 2003, chapter 102 changes the definition of "family or household members" in the laws governing when a law enforcement officer may arrest a person without a warrant for certain crimes between family or household members to include individuals presently or formerly living together and individuals who are or were sexual partners.

PUBLIC 138 An Act to Protect Against Unlawful Sexual Touching

LD 722

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SMITH N	OTP-AM	H-155 H-257 SMITH N

Public Law 2003, chapter 138 criminalizes intentional sexual contact with a person who is either 14 or 15 years of age who is not the actor's spouse when the actor is at least 10 years older than the other person. This form of sexual abuse of a minor is a Class D crime. It is a defense to a prosecution for the new crime that the actor reasonably believed the other person to be at least 16 years of age.

Public Law 2003, chapter 138 also creates the new crime of unlawful sexual touching. "Sexual touching" means any touching of the breasts, buttocks, groin or inner thigh, directly or through clothing, for the purpose of arousing or gratifying sexual desire. The crime of unlawful sexual touching is modeled after the current crime of unlawful sexual contact.

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PUBLIC 142 An Act To Enhance Juvenile Rehabilitation

LD 1192

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
EDMONDS	OTP-AM	S-77

Public Law 2003, chapter 142 amends the Maine Juvenile Code to allow the juvenile court to require that the parent, guardian or legal custodian of a juvenile charged with committing a juvenile crime attend all juvenile court proceedings, unless the court excuses attendance for good cause; however, it clarifies that the failure of a parent, guardian or legal custodian to appear in response to the summons or for a later hearing, or the inability to serve such a party, may not prevent the court from continuing with the proceedings against a juvenile who is before the court, except as required in the Maine Revised Statutes, Title 15, section 3314, subsection 1, paragraphs C-1 and C-2.

Public Law 2003, chapter 142 amends the Maine Juvenile Code to allow a court to order the parent, guardian or legal custodian of a juvenile adjudicated as having committed a juvenile crime to participate in and pay all or part of the reasonable costs of counseling, treatment, education and case management as determined by the court.

Public Law 2003, chapter 142 affirms that the court may invoke its contempt powers to enforce such attendance and court orders.

Public Law 2003, chapter 142 specifies that the court may not revoke a juvenile's probation because of the failure of the juvenile's parent, guardian or legal custodian to comply with an order to participate in or pay all or part of the reasonable costs of counseling, treatment, education and case management as determined by the court.

PUBLIC 143 An Act To Amend the Maine Criminal Code as Recommended by the Criminal Law Advisory Commission

LD 1020

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-153

Public Law 2003, chapter 143 does the following.

1. It defines "reasonable degree of force" in the context of the use of physical force by a parent, foster parent, guardian or other similar person responsible for the long-term general care and welfare of a person, as limited to applying physical force to a person that at most results in transient pain or minor temporary marks on that person.
2. It amends the law regarding the use of physical force in law enforcement in 3 ways. First, it adds the word "unlawful" to the law to specify that a law enforcement officer or private person may use force upon another when the law enforcement officer or private person reasonably believes that there exists an imminent use of "unlawful" force by another. The addition of "unlawful" makes this law consistent with other use of force provisions in Chapter 5 of the Maine Criminal Code. Second, it strikes an outdated reference to the Maine

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Correctional Institution - Warren. Third, it makes Title 17-A, section 107 gender neutral in conformance with drafting standards.

3. It adds the phrase "in fact" before the word "communicates" in Title 17-A, section 210, subsection 1 to clarify that no culpable mental state need be proved. The addition mirrors Maine case law. See State v. Porter, 384 A.2d 429, 433-434 (Me. 1978).
4. It clarifies Title 17-A, section 454, subsection 1, paragraph A, which concerns tampering with a witness, informant, juror or victim, by specifying that the actor must be aware at the time the actor induces or otherwise causes, or attempts to cause, a witness or informant to testify or inform falsely that such testimony or information is false.
5. It amends Title 17-A, section 1108, subsection 5, which concerns acquiring drugs by deception, to clarify that the trier of fact is permitted, as authorized by the Maine Rules of Evidence, Rule 303(b), to infer the causation element of "acquiring" from the act of deception described in Title 17-A, section 1108, subsection 2, paragraph A or B. This change is not intended to create a conclusive presumption.
6. It strikes from Title 17-A, section 1158, which concerns the forfeiture of firearms, the reference to the "judgment of conviction" to eliminate confusion. The forfeiture of a firearm is part of the sentence while the sentence is part of the judgment. See the Maine Rules of Criminal Procedure, Rule 32(b).
7. It provides for the tolling of a Maine sentence involving imprisonment in the event the person in execution of that sentence is a recalcitrant witness in a grand jury or criminal proceeding in a Maine court of record and has been ordered into coercive imprisonment as a remedial sanction for refusing to comply with an order of the court to testify or to provide evidence.
8. It clarifies that if the State pleads and proves that an actor has 2 or more prior convictions for stalking under Title 17-A, section 210-A, the State may not plead and prove further sentencing class enhancement under Title 17-A, section 1252.
9. Effective January 1, 2004, it eliminates the current requirement under Title 17-A, section 1252-B that deductions for good time and meritorious good time be taken into consideration when a sentencing alternative involving imprisonment is requested or recommended by a party or imposed by a court.
10. It amends the criteria for imposing fines to expressly recognize the existing limitation upon the court's discretion in the event the fine amount is mandatory and thus the convicted offender must be sentenced to pay the fine amounts required under Title 17-A, sections 1201 and 1301.
11. It amends provisions regarding the Criminal Law Advisory Commission to make them gender neutral.

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**PUBLIC 154 An Act To Clarify Sentencing for Persons Convicted of Class D and
Class E Crimes Involving Domestic Violence**

LD 1266

<u>Sponsor(s)</u> COLWELL STRIMLING	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-154
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Public Law 2003, chapter 154 specifies that the period of probation for a person convicted of a Class D or Class E crime involving domestic violence is 2 years, except that the term of probation terminates when the probationer has served at least one year, has completed a certified batterers' intervention program and has met all other conditions of probation.

**PUBLIC 158 An Act To Criminalize Noncompliance with an Interstate Compact
for Adult Offender Supervision**

LD 1023

<u>Sponsor(s)</u> LAFOUNTAIN SULLIVAN	<u>Committee Report</u> OTP	<u>Amendments Adopted</u>
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Public Law 2003, chapter 158 specifies that a person commits a Class D crime if that person is released on probation or parole by a state that is a member of an interstate compact for adult offender supervision and the person resides in Maine without complying with the requirements of the interstate compact.

**PUBLIC 160 An Act To Amend the Membership of the Maine Fire Protection
EMERGENCY Services Commission**

LD 1160

<u>Sponsor(s)</u>	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-156
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Public Law 2003, chapter 160 adds to the members of the Maine Fire Protection Services Commission the Director of Maine Emergency Medical Services and the Director of the Maine Emergency Management Agency. Public Law 2003, chapter 160 also authorizes the President of the Senate and the Speaker of the House of Representatives to appoint any Legislators to the Maine Fire Protection Services Commission, instead of limiting legislative members to those serving on the committee having jurisdiction over fire protection matters.

Public Law 2003, chapter 160 was enacted as an emergency measure effective May 14, 2003.

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PUBLIC 180 An Act To Amend the Maine Juvenile Code

LD 1496

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BUNKER CARPENTER	OTP-AM	H-189

Public Law 2003, chapter 180 requires that a Juvenile Court Judge or a justice of the peace determine whether there is probable cause to believe that a juvenile has committed a juvenile crime when a juvenile is arrested without a warrant for a juvenile crime or a violation of conditional release and is not released from custody or does not receive a detention hearing within 48 hours after arrest. Public Law 2003, chapter 180 also moves the section of law that deals with detention of juveniles charged as adults from Title 15, section 1102 to section 3206.

PUBLIC 182 An Act To Allow a Judge To Assess a Fee on a Defendant To Reimburse a Municipality for a Drug Test

LD 970

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MARTIN BUNKER	OTP-AM	S-76

Public Law 2003, chapter 182 authorizes a court, as part of a defendant's restitution, to include in a sentence for a crime the costs of drug tests administered by a law enforcement agency to the defendant. The court must then pay over any amounts collected to the state, municipal or county law enforcement agency that incurred the costs. Public Law 2003, chapter 182 does not apply to a test administered under the Maine Revised Statutes, Title 29-A for OUI.

PUBLIC 185 An Act to Aid Law Enforcement in Complying with Maine's Freedom of Access Laws

LD 249

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KOFFMAN MARTIN	OTP-AM	H-186

Public Law 2003, chapter 185 requires the chief administrative officer of each municipal, county and state law enforcement agency to certify to the board of trustees of the Maine Criminal Justice Academy annually that the agency has adopted a written policy regarding procedures to deal with a freedom of access request and that the chief has designated a person who is trained to respond to freedom of access requests received by the agency.

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PUBLIC 186 An Act To Increase Requirements for Notification of Release to Victims of Stalkers

LD 1224

<u>Sponsor(s)</u> CUMMINGS	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-188
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Public Law 2003, chapter 186 expands the laws governing the notification of a defendant's release from jail or an institution. Public Law 2003, chapter 186 adds "stalking" to the list of crimes for which a victim must be informed of the release of the defendant. Public Law 2003, chapter 186 also requires notification of the defendant's release to a victim when the defendant is institutionalized after being found incompetent to stand trial.

PUBLIC 188 An Act To Limit the Transfer of Handguns to Minors

LD 404

<u>Sponsor(s)</u> EDMONDS GERZOFISKY	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> S-86
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Public Law 2003, chapter 188 prohibits an individual who is not a federally licensed commercial firearms dealer from transferring a handgun to a person under the age of 18, making that provision of State law consistent with federal law. Federal law also prohibits licensed commercial firearms dealers from transferring handguns to persons under 21 years of age. Public law 2003, chapter 188 provides that unlawful transfer or sale to a minor is a Class D crime for the first offense and a Class C crime for any subsequent offense. Public Law 2003, chapter 188 also makes technical changes to clarify that possession of a handgun by a minor is not covered under the law's provisions.

PUBLIC 190 An Act To Clarify That the Maine Juvenile Code Does Not Preclude Sharing Information with School Administrators for Purposes of School Safety

LD 427

<u>Sponsor(s)</u> WESTON SYKES	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> S-29 S-95 WESTON
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Public Law 2003, chapter 190 specifies that the Maine Juvenile Code's confidentiality provisions authorize law enforcement officers or criminal justice agencies to share information pertaining to juveniles with school administrators if that information is credible and indicates an imminent danger to the safety of students or school personnel. Public Law 2003, chapter 190 also controls the dissemination of this information by requiring the superintendent who receives student information from a law enforcement officer to set up a notification team pursuant to Title 20-A, section 1055, subsection 11. Any information received pursuant to Public Law 2003, chapter 190 may not become part of a student's education record.

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PUBLIC 196 An Act To Conform to Federal Standards Maine's Law Regarding Strip Searches of Persons in Custody

LD 1524

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BUNKER STRIMLING	OTP-AM	H-232

Public Law 2003, chapter 196 repeals Title 5 section 200-G, subsection 2, paragraph A, which governed the use of strip searches. Because the law is insufficiently precise to be codified in statute, the rules provided for in the Title 5, section 200-G, subsection 1 are a sufficient means to provide guidance to law enforcement officers in this area and are much easier to amend if case law developments warrant such a change.

PUBLIC 199 An Act Regarding Railroad Police Training

LD 1450

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
STRIMLING JODREY	OTP	

Public Law 2003, chapter 199 brings the references in the statutes that specifically address the training requirements for a railroad police officer up to date and into compliance with the current training requirements established for law enforcement officers through the Maine Criminal Justice Academy.

PUBLIC 205 An Act To Amend the Laws Pertaining to the Department of Corrections

LD 1497

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BUNKER STRIMLING	OTP-AM	H-248

Public Law 2003, chapter 205 does the following.

1. It provides that, upon the request of the Department of Corrections, a court may order a defendant to pay a substance testing fee as a requirement of participation in an alcohol or drug treatment program.
2. It amends the supervised community confinement program to allow release to a hospice when medically appropriate.
3. It updates language in the crime of assault against a corrections officer.
4. It clarifies the process for revocation of a period of supervised release of sex offenders pursuant to Title 17-A, subchapter 50. The bill clarifies that when a person's supervised release is revoked, the remaining period of supervised release that is not required to be served in prison remains in effect to be served after the

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person is released and is subject to revocation again. This clarification is consistent with the process for revocation of probation.

5. It clarifies the process for sheriffs communicating information regarding presentence jail time credits. It requires a sheriff to provide all presentence jail time credits to the department and to the attorney for the State for the attorney's review. The attorney for the State then has a 15-day opportunity to review calculations of presentence detention for purposes of determining when a defendant may be released from incarceration.
6. It also fixes cross-references, repeals obsolete language and makes technical corrections.

PUBLIC 232	An Act To Change Mandatory Minimum Sentences in Certain Cases	LD 856
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<u>Sponsor(s)</u> MILLS P	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-311
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Public Law 2003, chapter 232 repeals the sentencing provision that requires that a person have no prior criminal history in order to be considered for a sentence that is other than a minimum mandatory term of imprisonment for a violation of Title 17-A, section 1105-A, 1105-B, 1105-C or 1105-D.

PUBLIC 233	An Act To Enhance the Powers of Law Enforcement Officers Authorized To Make Out-of-county or Out-of-municipality Arrests	LD 469
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<u>Sponsor(s)</u> GERZOFSKY STRIMLING	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-123 H-290 DUNLAP
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Public Law 2003, chapter 233 enhances the powers of law enforcement officers in the following ways.

1. The law limits the authority to make out-of-county or out-of-municipality arrests to only those officers who meet the training requirements of Title 25, section 2804-C.
2. The law expands these arrest powers for officers who meet the training requirements to include all powers listed in Title 17-A, section 15.
3. The law authorizes the trustees of the University of Maine System to empower the university system's full-time police officers to make certain arrests outside university property if the municipality in which an arrest is to be made has requested assistance in advance by cooperative agreement.

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PUBLIC 239 An Act To Amend the Law Regarding Juvenile Restitution

LD 1230

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SNOWE-MELLO	OTP-AM	H-278

Public Law 2003, chapter 239 specifies that for purposes of a juvenile disposition involving restitution, the court may enter a separate order for income withholding if the juvenile is employed. This is consistent with the process of collecting restitution paid by adult offenders.

PUBLIC 243 An Act To Improve Access to the Victims' Compensation Fund

LD 1510

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BUNKER STRIMLING	OTP-AM	H-277

Public Law 2003, chapter 243 makes the following changes to the laws regarding the Victims' Compensation Fund.

1. It expands the definition of family or household member to include other individuals "who bear an equally significant relationship to the victim."
2. It adds leaving the scene of a motor vehicle accident to the list of covered crimes if the crime results in personal injury or death.
3. It adds to eligible expenses repair or replacement of locks or other security devices.
4. It extends the application filing deadline from one year to 3 years.
5. It requires disclosure of relevant health care information to the Victims' Compensation Board pursuant to a victim's signed application to the board.
6. It provides for reimbursement to the Victims' Compensation Fund from restitution payments made by the offender after the victim's actual losses are covered.

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PUBLIC 305 An Act To Expand the Definition of "Juvenile Crime" To Include the Offenses of Possession and Use of Drug Paraphernalia, Illegal Transportation of Alcohol by a Minor and Transportation of Illegal Drugs by a Minor

LD 884

<u>Sponsor(s)</u> NORBERT PENDLETON	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-366
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Public Law 2003, chapter 305 amends the Maine Juvenile Code to add to the definition of "juvenile crime" the civil violations of possessing and using drug paraphernalia and transportation of alcohol or illegal drugs by a minor. Public Law 2003, chapter 305 corrects previous oversights in the law by adding to the provision defining juvenile crimes a reference to Title 15, section 393, subsection 1, paragraph C and by adding Title 15, section 3103, subsection 1, paragraph G to the list of juvenile crimes for which a juvenile may be arrested without a warrant.

Public Law 2003, chapter 305 clarifies the process by which the juvenile community corrections officer ensures that the Secretary of State receives notice of violations of Title 28-A, section 2052 and Title 22, section 2389, subsection 2 when no juvenile petition will be filed. Public Law 2003, chapter 305 requires the Secretary of State to suspend a juvenile's driver's license for 30 days upon receiving notice of a violation. Public Law 2003, chapter 305 also specifies that the court may suspend a juvenile's license for up to 6 months when a juvenile violates Title 17-A, chapter 45; Title 22, section 2383; Title 22, section 2383-B, subsection 5; Title 22, section 2389, subsection 2; or Title 28-A, section 2052 and is adjudicated to have committed a juvenile crime.

PUBLIC 341 An Act To Amend Certain Provisions Relating to a Permit To Carry Concealed Firearms To Be Consistent with Changes to the Statute Relating to Possession of Firearms by Prohibited Persons

LD 1546

<u>Sponsor(s)</u> CARR	<u>Committee Report</u> OTP	<u>Amendments Adopted</u>
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Public Law 2003, chapter 341 amends the requirements for the issuance of a permit to carry concealed firearms by the issuing authority to incorporate into the requirements the recent changes made to the Title 15, section 393 relating to possession of firearms by prohibited persons pursuant to Public Law 2001, chapter 549. Public Law 2003, chapter 341 also adds a permit to carry firearms provision in Title 25, section 2002 definitions for "conviction," "not criminally responsible by reason of mental disease or defect," "State," "state" and "use of dangerous weapon." Each definition is contained in Title 15, section 393.

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PUBLIC 358 An Act To Provide the Office of the State Fire Marshal with Adequate Funding for Construction Plans Review

LD 1401

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BUNKER STRIMLING	OTP-AM	H-472

Public Law 2003, chapter 358 authorizes the Commissioner of Public Safety to establish a fee schedule for the review of plans for construction, reconstruction or repairs to structures submitted to the Office of the State Fire Marshal. The fee schedule for new construction or new use is 5¢ per square foot for occupied spaces and 2¢ per square foot for bulk storage occupancies, except that a fee for review of a plan for new construction by a public school may not exceed \$450. The fee schedule for reconstruction, repairs or renovations is based on the cost of the project and may not exceed \$450.

PUBLIC 360 An Act Regarding the State Police Command Staff

LD 1449

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
STRIMLING JODREY	OTP-AM MAJ OTP-AM MIN	S-211

Public Law 2003, chapter 360 amends the laws concerning State Police command staff. Under current law, the Chief of the State Police may appoint lieutenant colonels and majors to assist the chief. An appointee who is either removed by the chief for a reason other than malfeasance of office or is not reappointed by a new chief may return to the appointee's previous rank in the State Police if the appointee is not eligible to collect retirement benefits. Public Law 2003, chapter 360 reflects that the number of years of creditable service for a full service retirement benefit has increased from 20 years to 25 years. Public Law 2003, chapter 360 also amends the law to reflect that only one chief deputy may be appointed, instead of 2, which the law now authorizes.

PUBLIC 361 An Act To Make Minor Changes to the Required Law Enforcement Policies

LD 1573

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
STRIMLING JODREY	OTP-AM	S-203

Public Law 2003, chapter 361 makes minor changes to the requirements contained within the mandatory law enforcement policy on domestic violence. Law enforcement agencies must have policies that require the collection of certain information by an officer that is to be provided to the bail commissioner after the arrest of a person involved in a domestic violence incident. A reference to a risk assessment is changed to the collection of information. The arresting officer does not perform a risk assessment. Secondly, the requirements regarding retrieval of personal property are modified slightly to allow for, rather than require, a neutral location for the

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exchange and to give the victim the option of 24 hours' notice to each party prior to retrieval rather than requiring it.

PUBLIC 370	An Act To Ensure Basic Standards for Death Investigations by Law Enforcement Agencies	LD 1434
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<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BUNKER STRIMLING	OTP-AM	H-474

Public Law 2003, chapter 370 requires law enforcement agencies to adopt a written policy to deal with death investigations, including the minimum standard protocol for death investigations published by the Department of the Attorney General. Public Law 2003, chapter 370 directs the Board of Trustees of the Maine Criminal Justice Academy to establish by January 1, 2004 the new model policy for death investigations. Public Law 2003, chapter 370 also requires that each law enforcement agency certify by June 1, 2004 to the board that the agency has adopted a death investigation policy and requires a law enforcement agency to certify by June 1, 2005 that the law enforcement agency has adopted orientation and training regarding the new policy.

PUBLIC 371	An Act To Amend the Sex Offender Registration and Notification Laws	LD 1514
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<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
O'BRIEN J CARPENTER	OTP-AM MAJ ONTP MIN	H-420

Public Law 2003, chapter 371 makes several changes to the sex offender registration and notification laws. Public Law 2003, chapter 371 does the following.

1. It expands the definition of "sex offense" to include 2 crimes regarding sexual exploitation of minors. The crimes of dissemination of sexually explicit materials and possession of sexually explicit materials are added to the definition of "sex offense."
2. It repeals a provision of law that requires the Department of Public Safety, State Bureau of Identification to maintain a directory of sexually violent predators. This provision is redundant, since Title 34-A, section 11221, subsection 1 requires the bureau to maintain a registry of all persons required to register under the chapter.
3. It clarifies the process for distribution of sex offender and sexually violent predator registration information to the Department of Corrections and law enforcement agencies and clarifies what access to that information the public and sex offenders or sexually violent predators have.
4. It clarifies that a sex offender or sexually violent predator shall notify the Department of Public Safety, State Bureau of Identification in writing when that person's place of employment or college or school changes, as a sex offender or sexually violent predator is required to do for a change in domicile.

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5. Since every state does not use the terms "sex offender" and "sexually violent predator," this bill specifies that a person required under another jurisdiction to register pursuant to that jurisdiction's registration statute shall register in this State when establishing domicile here or when employed or attending school here.
6. It adds county jails and state mental health institutes to the list of entities required to provide notification to the Department of Public Safety, State Bureau of Identification of a sex offender's or sexually violent predator's conditional release or discharge from that entity's facility.
7. It addresses an evidentiary issue by creating a provision that is similar to that authorizing the Secretary of State to use computer transcripts as evidence. Public Law 2003, chapter 371 specifies that a signed and sworn certificate by the custodian of the records of the Department of Public Safety, Bureau of State Police, State Bureau of Identification is admissible in a judicial or administrative proceeding as prima facie evidence of any fact stated in the certificate or in any documents attached to the certificate. This change eliminates the need to bring the custodian of the records to the court.
8. It also clarifies that a court determines at the time of sentencing whether a person is a sex offender or sexually violent predator.

**PUBLIC 393 An Act To Protect Public Safety Using DNA Data of Juvenile
Violent Offenders**

LD 380

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FAIRCLOTH BRENNAN	OTP-AM MAJ ONTP MIN	H-313

Public Law 2003, chapter 393 subjects a juvenile to DNA testing if the juvenile is adjudicated of committing a specific juvenile crime that, if committed by an adult, would constitute an offense listed in the Title 25, section 1574, subsection 6. This change would subject juveniles to DNA testing for only the most violent crimes, the list of which is more limited than the list of crimes for which adults must submit to DNA testing. Public Law 2003, chapter 393 also allows for the collection of biological samples, instead of only blood draws, for DNA testing. The process for collection of biological samples other than blood draws is less complicated, less expensive and less invasive. This change would apply to both juvenile and adult offenders subject to DNA testing requirements.

**PUBLIC 410 An Act To Amend the Department of Corrections' Laws Pertaining
to Juvenile Offenders**

LD 1592

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BUNKER HATCH PH	OTP-AM	H-473

Public Law 2003, chapter 410 eliminates terms of imprisonment in county jails for juveniles who commit adult offenses under Titles 12 and 29-A, such as operating after suspension, night hunting and operating an ATV on a

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public way, but provides, if the juvenile doesn't comply with the sentence given, the juvenile commits a juvenile crime.

Public Law 2003, chapter 410 amends the purposes of juvenile institutions to eliminate the references to preliminary hearings since these are no longer held for juveniles. Public Law 2003, chapter 410 amends the definition of "juvenile detainee" to include a juvenile detained for a drug court sanction under Title 15, section 3312, subsection 3, paragraph D. This clarifies that juveniles sanctioned by a drug court are considered detainees under the provisions of Title 34-A. Public Law 2003, chapter 410 clarifies that the Long Creek Youth Development Center and the Mountain View Youth Development Center are both detention and correctional facilities. Public Law 2003, chapter 410 also replaces references to "aftercare" with "community reintegration" throughout Title 34-A to reflect current terminology. Finally, Public Law 2003, chapter 410 allows a juvenile detainee to be hospitalized in a nonstate psychiatric hospital if ordered by the court by way of a procedure known as the "blue paper" process.

PUBLIC 413 An Act To Amend the Laws Regarding Prisoner Participation in Public Works Projects

LD 1622

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
		H-513 BUNKER

Public Law 2003, chapter 413 amends the laws regarding prisoner participation in public works projects.

Public Law 2001, chapter 171 authorized county sheriffs instead of a court to make decisions concerning prisoner employment, participation in public works and participation in electronic monitoring and intensive supervision outside the jail. However, the law repeals that authorization 90 days after the adjournment of the First Regular Session of the 121st Legislature. Public Law 2003, chapter 413 repeals the reversion to the courts so that county sheriffs will continue to make decisions regarding prisoner participation in employment, public works, electronic monitoring and intensive supervision. Public Law 2003, chapter 413 also directs that the wages or salaries of employed prisoners and employment income of self-employed prisoners must be disbursed by the sheriff for fines, forfeitures and penalties, attorney's fees and surcharges after the wages or salaries are disbursed for the prisoner's board, the prisoner's work-related expenses, the prisoner's support of that prisoner's dependents and for restitution to victims.

PUBLIC 443 An Act To Improve the Procedure for Locating Runaway Children

LD 956

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SMITH N	ONTP MAJ	H-367
MARTIN	OTP-AM MIN	

Public Law 2003, chapter 443 allows a law enforcement agency having original responsibility over a missing child report involving a child who is a runaway from the Department of Human Services interim care that includes temporary shelter to transfer responsibility for investigating the case to the law enforcement agency having jurisdiction over a location in this State that is believed to be the permanent residence of the runaway child. A transfer of responsibility may be made after the child has been a missing child for at least 48 hours, but

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no more than 60 days, if the chief administrative officer of the law enforcement agency determines that it is in the best interest of finding the child.

Public Law 2003, chapter 443 is repealed July 1, 2005.

PUBLIC 461	An Act to Control County Jail and Correctional Facility Health Care Expenses Incurred outside the Facilities	LD 808
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<u>Sponsor(s)</u> BUNKER CARPENTER	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-365
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Public Law 2003, chapter 461 limits the amount a county may pay a health care provider for health care services, goods, prescriptions and medications supplied to a prisoner only to the amount equal to the reimbursement rate applicable to that provider and that service as established by rule of the Department of Human Services for the MaineCare program under the Maine Revised Statutes, Title 22. The reimbursement rate applies only to services and medications provided to an inmate outside a county jail. The reimbursement rate does not apply to any contracts for services within county jails.

PUBLIC 475	An Act To Ensure Effective Prosecution of Certain Repeat Offenders	LD 976
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<u>Sponsor(s)</u> SAVAGE	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> S-33
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Public Law 2003, chapter 475 amends the provision of the Maine Criminal Code that allows enhanced prosecution of persons for certain crimes who have at least 2 previous convictions for certain offenses by adding references to a crime that is not in chapter 9, 11, 13 or 27 of the Maine Criminal Code. Aggravated criminal trespass in the Maine Revised Statutes, Title 17-A, section 402-A, subsection 1, paragraph A always includes within its proof the commission of a crime in chapters 9 or 11 of the Maine Criminal Code, but aggravated criminal trespass is in chapter 17 and therefore currently does not raise the sentencing category for certain subsequent crimes. Public Law 2003, chapter 475 also adds aggravated criminal trespass to the list of crimes for which enhanced prosecution may be sought in the case of a defendant who has prior convictions for certain crimes.

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PUBLIC 476 An Act To Increase Penalties for Furnishing or Trafficking Scheduled Drugs That Cause Death or Serious Bodily Injury

LD 944

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BUNKER HATCH PH	OTP-AM	H-157 S-93 MARTIN

Public Law 2003, chapter 476 increases the penalties for trafficking or furnishing schedule W drugs or a counterfeit scheduled drug when death or serious bodily injury results from the use of the drug, as in cases of accidental overdoses. The law does the following:

1. Makes it a Class A crime with the possibility of a 4-year mandatory minimum sentence when death occurs from the aggravated trafficking of a schedule W drug;
2. Makes it a Class B crime with the possibility of a 2-year mandatory minimum sentence when death occurs from the aggravated furnishing of a schedule W drug, when serious bodily injury occurs from aggravated trafficking of a schedule W drug or when death or serious bodily injury occurs from the aggravated trafficking or aggravated furnishing of a counterfeit scheduled drug; and
3. Make it a Class C crime when serious bodily injury occurs from the aggravated furnishing of a schedule W drug.

The changes add such situations to the existing list of aggravating circumstances that already provide for increased penalties, such as furnishing or trafficking within 1,000 feet of a school or to a child under 18 years of age. The death or serious bodily injury need not be reasonably foreseeable by the defendant; it is sufficient if the death would not have happened but for the use of the drug, either alone or concurrently with another cause, unless the concurrent cause was clearly sufficient to produce the result, and the conduct of the defendant was clearly insufficient.

Public Law 2003, chapter 476 provides for an affirmative defense if the defendant believed that death or serious bodily injury was not reasonably foreseeable from the use of the lawfully possessed scheduled drug that was unlawfully furnished. The affirmative defense would be available only when a prescription medication was lawfully prescribed to the defendant, the defendant unlawfully furnished the medication without payment or other consideration and death or serious bodily injury resulted that was not reasonably foreseeable. In assessing whether the death or serious bodily injury was foreseeable, a jury shall consider the factual circumstances surrounding the furnishing, the total quantity of the drug furnished, the dosage of the units furnished, the nature of the drug, the overdose risk presented by its use and any safety warnings provided to the defendant at the time of dispensing.

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PUBLIC 482 An Act To Improve Conditions for Inmates with Mental Illness

LD 475

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GERZOFSKY DAGGETT	OTP-AM	H-548 S-260 STRIMLING

Public Law 2003, chapter 482 accomplishes the following.

1. It directs sheriffs to establish boards of visitors for county jails.
2. It rewords a provision of Title 34-A to clarify that a chief administrative officer shall make an application for involuntary hospitalization of an inmate when that inmate has been determined by a competent medical authority to require inpatient treatment for mental illness.
3. It requires the Department of Behavioral and Developmental Services to review the use of seclusion and restraint with prisoners with major mental illness and annually report findings and recommendations to the Commissioner of Corrections and the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters.
4. It directs the Department of Corrections to assist the department's correctional officers assigned to inmate discharge planning in increasing their understanding of the services and supports available in the State for inmates with mental illness or substance abuse diagnoses.

PUBLIC 495 An Act to Adopt a New Interstate Compact Regarding Adults Who are on Probation and Parole

LD 311

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
O'BRIEN J	OTP-AM	H-210 S-293 CATHCART

Public Law 2003, chapter 495 creates the Interstate Compact for Adult Offender Supervision. The law enters Maine into a compact among enacting states to oversee, supervise and coordinate the interstate movement of adult offenders who are on probation or parole. The compact creates a governing body called the Interstate Commission for Adult Offender Supervision made up of representatives from the enacting states, which has rulemaking, enforcement and other powers. The compact currently is in effect in over 40 states. The law deappropriates \$23,000 in fiscal years 2003-2004 and 2004-2005 from the Adult Community Corrections program within the Department of Corrections, and appropriates \$23,000 from the General Fund in fiscal years 2003-2004 and 2004-2005 to cover association dues and transportation costs.

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PUBLIC 500 An Act To Adopt an Interstate Compact for Juveniles on Probation and Parole

LD 1323

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
O'BRIEN J	OTP-AM	H-209

Public Law 2003, chapter 500 creates the Interstate Compact for Juveniles. The law enters Maine into a compact among enacting states to oversee, supervise and coordinate the interstate movement of juveniles who are on probation or parole. The compact creates a governing body called the Interstate Commission for Juveniles made up of representatives from the enacting states, which has rulemaking, enforcement and other powers. The compact becomes effective upon enactment by the 35th state.

PUBLIC 503 An Act To Improve Access by the Department of Corrections to Federal Funds under Title IV-E of the Federal Social Security Act

LD 1498

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
STRIMLING	OTP-AM	S-118
GERZOFKY		S-301 CATHCART

Public Law 2003, chapter 503 amends the Maine Revised Statutes, Title 15, section 3314, subsection 1, paragraph H so that when a juvenile is given a "shock" sentence, or 30-day short term sentence, the court must make the reasonable-efforts determination required for federal funding under Title IV-E of the Social Security Act. Public Law 2003, chapter 503 also amends Title 15, section 3314, subsection 2 to add a provision so that whenever a probation revocation results in a juvenile's being committed to a department facility, whether for an indeterminate time or for a "shock" sentence, the court must make the reasonable-efforts determination required for federal funding under Title IV-E of the Social Security Act. Similarly, Public Law 2003, chapter 503 amends Title 15, section 3314 so that the determination is made whenever a court orders continued detention pending a probation revocation. Compliance with the requirements of Title IV-E is necessary to receive federal funds for juveniles who are placed outside of their homes. Finally, Public Law 2003, chapter 503 amends Title 15, section 3315, subsection 3 to end the reviews of these reasonable-efforts determinations once a juvenile reaches 18 years of age, when eligibility for federal funding ceases.

RESOLVE 23 Resolve, Directing the Commissioner of Public Safety To Study the Emergency Medical Services System

LD 1065

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BULL	OTP-AM	H-187
NASS		H-208 BULL

Resolve 2003, chapter 23 directs the Commissioner of Public Safety to conduct a study of the emergency medical services system that includes the following components:

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1. An independent assessment of the needs, design and structure of the organization and administration of the emergency medical services system at the regional level;
2. An independent assessment of the needs, design and structure of the organization and administration of the emergency medical services system at the state level; and
3. An independent assessment of the fiscal resources necessary to deliver emergency medical services at the regional and state levels.

The resolve also directs that the study include input and information from various interested parties, enables the commissioner to accept public or private funds and grants for the study, directs the commissioner to report back to the Joint Standing Committee on Criminal Justice and Public Safety and enables that committee to report out legislation concerning the report. The resolve notes that costs of the study are intended to be funded by Other Special Revenue funds and makes an Other Special Revenue funds allocation for this purpose.

RESOLVE 26	Resolve, Regarding Legislative Review of Chapter 15: Batterer	LD 1526
EMERGENCY	Intervention Program Certification, a Major Substantive Rule of	
	the Department of Corrections	

<u>Sponsor(s)</u>		<u>Committee Report</u>		<u>Amendments Adopted</u>
		OTP		

Resolve 2003, chapter 26 provides for legislative review of Chapter 15: Batterer Intervention Program Certification, a major substantive rule of the Department of Corrections. The Joint Standing Committee on Criminal Justice and Public Safety authorized final adoption of the rule without amendment.

Resolve 2003, chapter 26 was passed as an emergency measure effective May 16, 2003.

RESOLVE 33	Resolve, To Streamline and Encourage Use of the Suspension	LD 705
	Process to Combat Reckless Driving	

<u>Sponsor(s)</u>		<u>Committee Report</u>		<u>Amendments Adopted</u>
BENNETT R		OTP-AM		S-110

Resolve 2003, chapter 33 directs the Secretary of State to develop a form for use by law enforcement officers to transmit adverse reports, which enables the Secretary of State to suspend licenses for reckless driving pursuant to Title 29-A, section 2458. The resolve also directs the Maine Criminal Justice Academy and law enforcement agencies to make officers aware and encourage use of the form.

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RESOLVE 75 **Resolve, to Improve Community Safety and Sex Offender**
EMERGENCY **Accountability**

LD 372

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
COLWELL	OTP-AM	H-158
ROTUNDO		S-267 GAGNON

Resolve 2003, chapter 75 establishes the Commission to Improve Community Safety and Sex Offender Accountability. The resolve directs the commission to gather information from public and private entities to examine and recommend changes to current laws governing sentencing, registration, release and placement of sex offenders. The commission is composed of 18 members, and the group has 4 meetings in which to complete its work. The commission shall submit its report to the Legislature, and the Joint Standing Committee on Criminal Justice and Public Safety may report out a single bill related to the study.

Resolve 2003, chapter 75 was passed as an emergency measure effective June 17, 2003.